



Department of Transportation

National Highway Traffic Safety Administration

[Docket No. NHTSA-2012-0028; Notice 1]

Morgan Olson, LLC, Receipt of Petition for
Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration, DOT

ACTION: Receipt of Petition

SUMMARY: Morgan Olson, LLC (Morgan Olson)¹ has determined that certain model year 2009, 2010, and 2011 Morgan Olson walk-in van-type trucks having a gross vehicle weight rating (GVWR) over 4,536 kg and manufactured between September 1, 2009, and January 18, 2012, do not fully comply with paragraph S4.2.1 of Federal Motor Vehicle Safety Standard (FMVSS) No. 206, *Door Locks and Door Retention Components*. Morgan Olson has filed an appropriate report dated January 19, 2012, pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports*.

Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR Part 556), Morgan Olson submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

¹Morgan Olson, LLC, is manufacturer of motor vehicles and is registered under the laws of the state of Michigan.

This notice of receipt of Morgan Olson's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Vehicles involved: Affected are approximately 6430 Morgan Olson model year 2009, 2010, and 2011 walk-in van-type trucks having a GVWR over 4,536 kg and manufactured between September 1, 2009 and January 18, 2012.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, these provisions only apply to the subject 6430² model year 2009, 2010, and 2011 trucks that Morgan Olson no longer controlled at the time it determined that the noncompliance existed.

Noncompliance: Morgan Olson explains that the noncompliance is that the affected vehicles do not contain a primary door latch system or door closure warning system as prescribed by paragraph

² Morgan Olson's petition, which was filed under 49 CFR Part 556, requests an agency decision to exempt Morgan Olson as a vehicle manufacturer from the notification and recall responsibilities of 49 CFR Part 573 for the 6430 affected vehicles. However, a decision on this petition cannot relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Morgan Olson notified them that the subject noncompliance existed.

S4.2.1 of FMVSS No. 206. As a result of an erroneous interpretation as to the scope of FMVSS No. 206's application, Morgan Olson mistakenly believed that the requirement for either a primary door latch system or door closure warning system applied only to its vehicles having a GVWR under 4,536 kg.

Morgan Olson explains that the latch systems in the noncompliant vehicles do not meet the standard of a primary door latch, because these latch systems do not have a secondary latched position. Nor are these vehicles equipped with a door closure warning system.

Rule text: Paragraph S4.2.1 of FMVSS No. 206 requires in pertinent part:

S4.2 Sliding Side Doors.

S4.2.1 Latch System. Each sliding door system shall be equipped with either:

- (a) At least one primary door latch system, or
- (b) A door latch system with a fully latched position and a door closure warning system. The door closure warning system shall be located where it can be clearly seen by the driver. Upon certification a manufacturer may not thereafter alter the designation of a primary latch. Each manufacturer shall, upon request from the National Highway Traffic Safety Administration, provide information regarding such designation...

SUMMARY OF MORGON OLSON'S ANALYSIS AND ARGUMENTS:

In describing the operation of the affected doors Morgan Olson explained that when the sliding door is closed but not latched, there is a 1/2 inch gap between the door and its frame.

Thus the rubber seal in the door jam as well as the exterior paint are clearly visible. When the door is latched, none of this is visible.

Morgan Olson stated that its customers are delivery and like companies whose drivers are trained commercial drivers. A trained commercial driver, such as one driving a walk-in van manufactured by Morgan Olson, would immediately notice this gap and realize that the door is not latched.

Morgan Olson also stated its belief that even if the driver did not notice that the door was not latched by means of observing the 1/2 inch gap, the door would slowly begin to slide open as the vehicle began to accelerate, which a driver would certainly notice. Accordingly, if the sliding door is not latched, this would be apparent to the driver as soon as he accelerates.

In addition, Morgan Olson stated its belief that this noncompliance in walk-in van type vehicles is distinguishable from the primary focus of FMVSS No. 206 sliding door standards. In adopting the standards, NHTSA noted a particular concern with sliding door failures in passenger vans, which often contain children in the back seat(s)³.

Morgan Olson argued that with passenger vans, the sliding doors are situated behind the driver and therefore out of the

³ 72 FR 5385

driver's line of sight. And, that this is not true for the for subject trucks that are used for commercial purposes and driven by commercial drivers without passengers.

In summation, Morgan Olson believes that the described noncompliance of its vehicles is inconsequential to motor vehicle safety, and that its petition, to exempt from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

COMMENTS: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods:

a. By mail addressed to: U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590.

b. By hand delivery to U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except Federal Holidays.

c. Electronically: by logging onto the Federal Docket Management System (FDMS) website at <http://www.regulations.gov/>.

Follow the online instructions for submitting comments.

Comments may also be faxed to 1-202-493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

Documents submitted to a docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at <http://www.regulations.gov> by following the online instructions for accessing the dockets. DOT's complete Privacy Act Statement is available for review in the Federal Register published on April 11, 2000, (65 FR 19477-78).

The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent

possible. When the petition is granted or denied, notice of the decision will be published in the Federal Register pursuant to the authority indicated below.

COMMENT CLOSING DATE: (insert date 30 days after Publication Date).

Authority: (49 U.S.C. 30118, 30120: delegations of authority at CFR 1.50 and 501.8)

Issued on: March 23, 2012

Claude H. Harris, Director
Office of Vehicle Safety Compliance

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